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7
8 **BEFORE THE**
BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation) NO. AC-95-18
11 Against:)
12 ROSE ANN GALATI) DEFAULT DECISION
100 E. Thousand Oaks Blvd. #236)
13 Thousand Oaks, CA 91360) [Gov. Code §11520]
14 Certified Public Accountant)
15 Certificate No. 34613)
16 Respondent.)

17
18 **FINDINGS OF FACT**

19 1. On or about February 6, 1995, Complainant Carol B.
20 Sigmann, in her official capacity as Executive Officer of the Board
21 of Accountancy, Department of Consumer Affairs, State of California
22 ("Board of Accountancy"), filed Accusation No. AC-95-18 against
23 Rose Ann Galati ("respondent").

24 2. On or about February 23, 1995, Eumelia Guzman, an
25 employee of the Office of the Attorney General, sent by certified
26 and regular mail a copy of Accusation No. AC-95-18, Statement to
27 Respondent, Government Code sections 11507.5, 11507.6, and 11507.7,

1 the Notice of Defense form, and a Request for Discovery, to
2 respondent's address of record with the Board of Accountancy which
3 was and is 100 E. Thousand Oaks Blvd. #236, Thousand Oaks, CA
4 91360. The aforementioned documents were returned to the Office of
5 the Attorney General marked "Moved Left No Forwarding Address" by
6 the U.S. Postal Service. The same set of documents were also
7 served by certified and regular mail on respondent at 1990 W. Gila
8 Court, Newbury Park, CA 91320. The latter set of documents were
9 not returned. The above-described service was effective as a
10 matter of law pursuant to the provisions of California Government
11 Code section 11505, subdivision (c).

12 3. On May 7, 1982, the Board of Accountancy issued
13 Certified Public Accountant Certificate No. 34613 to respondent.
14 On July 1, 1994 the license expired for non-payment of renewal fee
15 and for failure to submit evidence of compliance with continuing
16 education requirements.

17 4. California Business and Professions Code section 118
18 provides, in pertinent part:

19 "(b) The suspension, expiration, or forfeiture by
20 operation of law of a license issued by a board in the
21 department, or its suspension, forfeiture, or cancellation by
22 order of the board or by order of a court of law, or its
23 surrender without the written consent of the board, shall not,
24 during any period in which it may be renewed, restored,
25 reissued, or reinstated, deprive the board of its authority to
26 institute or continue a disciplinary proceeding against the
27 licensee upon any ground provided by law or to enter an order

1 suspending or revoking the license or otherwise taking
2 disciplinary action against the license on any such ground."

3 5. California Government Code section 11506 provides, in
4 pertinent part:

5 "(b) The respondent shall be entitled to a hearing on the
6 merits if he files a notice of defense, and any such notice
7 shall be deemed a specific denial of all parts of the
8 accusation not expressly admitted. Failure to file such
9 notice shall constitute a waiver of respondent's right to a
10 hearing, but the agency in its discretion may nevertheless
11 grant a hearing. ..."

12 6. Respondent failed to file a Notice of Defense within
13 15 days after service upon her of the Accusation and therefore
14 waived her right to a hearing on the merits of Accusation No.
15 AC-95-18.

16 7. California Government Code section 11520 provides, in
17 pertinent part:

18 "(a) If the respondent fails to file a notice of defense
19 or to appear at the hearing, the agency may take action based
20 upon the respondent's express admissions or upon other
21 evidence and affidavits may be used as evidence without any
22 notice to respondent; ..."

23 8. The Board of Accountancy, is authorized to revoke
24 respondent's Certified Public Accountant Certificate pursuant to
25 the following provisions of the California Business and Professions
26 Code:

27 //

1 a. Section 5100 provides that the Board may revoke,
2 suspend or refuse to renew any permit or certificate issued by
3 the Board, or may censure the holder of any such permit or
4 certificate.

5 9. Pursuant to its authority under Government Code
6 section 11520, and based on the evidence before it, the Board finds
7 that the allegations, and each of them, contained in the Accusation
8 No. AC-95-18 are true.

9 DETERMINATION OF ISSUES

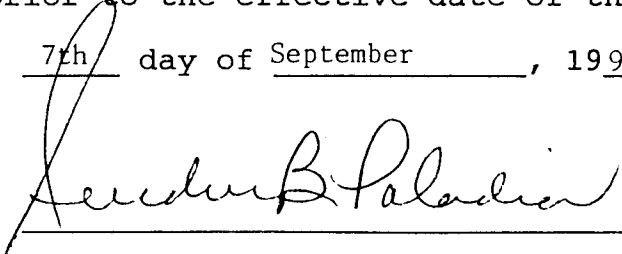
10 1. Respondent is subject to disciplinary action pursuant
11 to section 5100 of the California Business and Professions Code by
12 reason of the Finding of Facts numbers 1 through 9, above.

13 ORDER OF THE BOARD

14 Certified Public Accountant Certificate number 34613,
15 heretofore issued to respondent Rose Ann Galati, is hereby revoked.
16 An effective date of August 7, 1995, has been assigned to this
17 Order.

18 Pursuant to California Government Code section 11520,
19 subdivision (b), respondent is entitled to make any showing by way
20 of mitigation; however, such showing must be made in writing to the
21 Board of Accountancy, 2000 Evergreen Street, Ste 250, Sacramento,
22 California 95815, prior to the effective date of this decision.

23 Made this 7th day of September, 1995.

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25 
26 _____
27 FOR THE BOARD

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of the State of California
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10 In the Matter of the Accusation) NO. AC-95-18
11 Against:)
12 ROSE ANN GALATI) ACCUSATION
13 100 E. Thousand Oaks Blvd. #236)
Thousand Oaks, CA 91360)
14 Certified Public Accountant)
15 Certificate No. 34613)
Respondent.)

16
17 COMES NOW Complainant Carol B. Sigmann, who as cause
18 for disciplinary action, alleges:

19 1. Complainant is the Executive Officer of the
20 California State Board of Accountancy ("Board") and makes and
21 files this accusation solely in her official capacity.

22 LICENSE STATUS

23 2. On or about May 7, 1982, Certified Public
24 Accountant Certificate No. 34613 was issued by the Board to Rose
25 Ann Galati ("respondent"), and at all times relevant herein, said
26 Certified Public Accountant Certificate was in full force and
27 effect. The license expired on July 1, 1994 for non-payment of

1 renewal fee and for failure to submit evidence of compliance with
2 continuing education requirements.

3 3. Pursuant to section 118(b) of the Business and
4 Professions Code, the suspension, expiration, or forfeiture by
5 operation of law of a license issued by the Board shall not,
6 during any period during which it may be renewed, restored,
7 reissued or reinstated, deprive the Board of its authority to
8 institute or continue a disciplinary proceeding against the
9 licensee upon any ground provided by law or to enter an order
10 suspending or revoking the license or otherwise taking
11 disciplinary action against the licensee on any such ground.

12 STATUTES

13 4. This accusation is made in reference to the
14 following statutes of the California Business and Professions
15 Code ("Code"):

16 a. Section 5100 provides that the Board may revoke,
17 suspend or refuse to renew any permit or certificate issued
18 by the Board, or may censure the holder of any such permit
19 or certificate.

20 b. Section 5100(c) of the Code provides that the Board
21 may take disciplinary action against a licensee for
22 dishonesty, fraud, or gross negligence in the practice of
23 public accountancy.

24 c. Section 5100(f) of the Code provides that the Board
25 may take disciplinary action against a licensee for willful
26 violation of the Accountancy Act [Code §§ 5000, et seq.] or
27 any rule or regulation promulgated by the Board.

1 d. Section 5100(h) of the Code provides in part that
2 the Board may take disciplinary action against a licensee
3 for fiscal dishonesty or breach of fiduciary responsibility.

4 e. Section 5037(b) of the Code provides in part that
5 the licensee shall furnish to his or her client, upon
6 request and reasonable notice:

7 1. A copy of the licensee's working papers, to the
8 extent that those working papers include records that
9 would ordinarily constitute part of the client's
10 records and not otherwise available to the client;

11 2. Any accounting or other records belonging
12 to, or obtained from or on behalf of, the client
13 which the licensee removed from the client's
14 premises or received for the client's account.

15 f. Section 5107 provides, in part, that the Board may
16 request the administrative law judge, as part of the
17 proposed decision in a disciplinary proceeding, to direct
18 any holder of a permit or certificate found in violation of
19 section 5100 (a), (b), (c), (h), (i) or (j), to pay to the
20 Board all reasonable costs of investigation and prosecution
21 of the case, including, but not limited to, attorney's fees.

22 5. This accusation is made in reference to the
23 following regulations of Title 16 of the California Code of
24 Regulations:

25 a. Section 3 provides that a licensee must file, in
26 writing, with the Board any change in her address within 30
27 days.

1 b. Section 60 provides that a licensee shall not
2 engage in conduct which constitutes fiscal dishonesty or
3 breach of fiduciary responsibility of any kind.

4 c. Section 68 provides that a licensee, after demand
5 made by or on behalf of a client, for books, records or
6 other data shall not retain such records.

7 FACTS

8 6. Respondent Rose Ann Galati is subject to
9 disciplinary action under section 5100(c) of the Code for gross
10 negligence in the practice of public accountancy. The
11 circumstances are as follows:

12 A. Respondent Rose Ann Galati was a sole practitioner
13 for approximately 10 years at 100 E. Thousand Oaks Blvd.,
14 Suite 236, Thousand Oaks, California. Sometime between the
15 months of March and September, 1993 Respondent abandoned her
16 public accounting practice without notification to her
17 clients and without completing the work she had been engaged
18 to perform.

19 B. Specifically, respondent failed to use due
20 diligence or otherwise complete engagements on behalf of the
21 following clients:

22 (1) Failed to file an extension for the 1992
23 income taxes and failed to complete the
24 preparation of the tax returns for Nancy
25 Calabretta (NCS Medical Enterprises, Inc.); Stan
26 Watts; Lisa Fournier and Fournier Drywall, Inc;
27 Christina Hartin; and James and Kelly Rogers.

(2) Failed to complete the 1989 income tax return for Kenneth and Nancy Adams and failed to respond to correspondence from taxing authorities.

C. Said failures and conduct constitute gross negligence by respondent Rose Ann Galati in the practice of public accountancy.

7. Respondent Rose Ann Galati is subject to disciplinary action under section 5100(h) of the Code for breach of fiduciary responsibility in the practice of public accountancy. The circumstances are as follows:

A. The facts alleged in paragraph 6 and all its subparagraphs above are incorporated by reference.

B. Between March, 1993 and September, 1993 Respondent Rose Ann Galati ignored attempts by her clients to contact her.

C. On March 1, 1994 Respondent Rose Ann Galati returned to her office at 100 E. Thousand Oaks Blvd., Suite 236, and then she, or one at her direction, vandalized the office by throwing hundreds of client files everywhere. Respondent did not return to this office, and she left behind records for 1,345 clients that filled 176 boxes.

D. Said failures and conduct constitute a breach of fiduciary responsibility by respondent Rose Ann Galati in the practice of public accountancy.

8. Respondent Rose Ann Galati is subject to disciplinary action under section 5100(f) of the Code in that she willfully violated section 60 of Title 16 of the California Code

1 of Regulations as set forth hereinabove at paragraph 7.

2 9. Respondent Rose Ann Galati is subject to
3 disciplinary action under section 5100(f) of the Code in that she
4 willfully violated section 5037(b) of the Code and section 68 of
5 Title 16 of the California Code of Regulations by failing to
6 return client documents when requested. The circumstances are as
7 follows.

8 A. The facts alleged in paragraph 7 and all its
9 subparagraphs above are incorporated by reference.

10 B. From approximately March through September 1993,
11 Respondent Rose Ann Galati did not respond to repeated
12 requests to return source documents used to prepare income
13 tax returns for the following clients - Nancy Calabretta,
14 Stan Watts, Lisa Fournier, Christina Hartin, Kenneth and
15 Nancy Adams, James and Kelly Rogers, Julie Roberts and Joan
16 Roberts.

17 C. Respondent continues to retain the 1992 source
18 documents for Nancy Calabretta, Stan Watts, Christina
19 Hartin, Kenneth and Nancy Adams, and James and Kelly Rogers.
20 The other clients were able to obtain their records from the
21 abandoned files at 100 E. Thousand Oaks Blvd., Suite 236.

22 10. Respondent Rose Ann Galati is subject to
23 disciplinary action under section 5100(f) of the Code in that she
24 willfully violated section 3 of Title 16 of the California Code
25 of Regulations by failing to notify the Board of Accountancy
26 that, on or about September, 1993, she changed her address from
27 100 E. Thousand Oaks Blvd., Suite 236, Thousand Oaks, California.

WHEREFORE, complainant requests that a hearing be held on the matters alleged herein, and that following said hearing, a decision be issued:

1. Revoking or suspending Certified Public Accountant Certificate Number 34613, heretofore issued to respondent Rose Ann Galati;
2. Directing respondent Rose Ann Galati to pay to the Board a reasonable sum for its investigative and enforcement costs of this action; and
3. Taking such other and further action as the Board deems appropriate to protect the public health, safety and welfare.

DATED: February 6, 1945

Carol B. Sigmahn
Carol B. Sigmahn
Executive Officer
Board of Accountancy
Department of Consumer Affairs
State of California

Complainant

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